IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CWP No.6979 of 1989

Date of Decision: 23.11.2006

Jasminder Kaur .....Petitioner

Versus

State of Punjab and others .....Respondents

CORAM:- HON'BLE MR.JUSTICE J. S. KHEHAR
HON'BLE MR.JUSTICE S. D. ANAND

Present: Mr.Amit Chopra, Advocate
for the petitioner.

Mr.Ashok Aggarwal, Additional AG Punjab.

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J.S.KHEHAR, J.(Oral)

The petitioner was inducted into the service of the respondents as a SS Mistress on adhoc basis w.e.f. 20.11.1973. The services of the petitioner were impliedly terminated by the respondents on 15.4.1977 and she was relieved from her duties as SS Mistress.

After the petitioner was relieved from service, the State Government issued Policy Instructions dated 3.5.1977, wherein it envisaged the regularisation of the services of those who had continuous service for a continuous period of one year as on 31.3.1977. The petitioner submitted a representation claiming regularisation under the Policy Instructions dated 3.5.1977. The claim raised by the petitioner was acknowledged, whereupon

she was appointed on regular basis by an order dated 2.4.1979 w.e.f. 1.4.1977.

The order dated 2.4.1979 was cancelled by a subsequent order dated 9.7.1979. Aggrieved by the order dated 9.7.1979, the petitioner approached this Court by filing Civil Writ Petition No.3026 of 1979. While allowing the aforesaid writ petition on 19.9.1979 and setting aside the order dated 9.7.1979, the respondents were granted liberty to hold an enquiry against the petitioner and pass a fresh order according to law. The respondents chose not to adopt the aforesaid course of action. In sum and substance therefore, the order passed on 19.9.1979 having set aside the order dated 9.7.1979 had the necessary and logical effect of revival of order dated 2.4.1979, whereby, the services of the petitioner had been regularised w.e.f. 1.4.1977.

Despite the fact that civil writ petition No.3026 of 1979 had been allowed on 19.9.1979 as has been detailed in the foregoing paragraph, the petitioner was not allowed to resume her duties. It is in the aforesaid circumstances that the petitioner approached this Court by filing COCP No.46 of 1980. The aforesaid contempt petition was disposed of by this Court on 8.4.1980 by passing the following order:

> "The D.E.O. Concerned is present in the court. He has made a statement that the petitioner should join service at the Government High School at Jatana. In view of the statement made by the D.E.O., I do not feel inclined to proceed further in this matter. This petition is dismissed and the rule is discharged."

It is appropriate and adequate that in furtherance of order

passed on 8.4.1980 in COCP 46 of 1980, the petitioner was allowed to resume her duties on 10.4.1980.

Having allowed the petitioner to resume her duties on 10.4.1980, the respondents started to treat her as if she has been appointed into service of the respondents w.e.f. 10.4.1980 in complete disregard to the order dated 2.4.1979 (which came to be revived as a consequence of the order dated 19.9.1979 passed in CWP No.3026 of 1979). It is in this backdrop that the petitioner has approached this Court so as to seek a clear mandate of having been regularised in service w.e.f. 1.4.1977 and not w.e.f. 10.4.1980.

There is hardly any controversy to be adjudicated upon while disposing of the instant writ petition in terms of the order passed on 19.9.1979 in CWP No.3026 of 1979. It is apparent that the order of the petitioner's regular appointment dated 2.4.1979 which clearly depicted that she had been regularised w.e.f. 1.4.1977 came to be revived. Thus, there is no ambigunity whatsoever and the petitioner must be deemed to be regularised w.e.f. 1.4.1977. Ordered accordingly. The petitioner shall be entitled to all consequential benefits of regularisation w.e.f. 1.4.1977.

(J. S. KHEHAR)
JUDGE

(S. D. ANAND)
JUDGE

November 23, 2006
SRM